

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1635

H.P. 1153

House of Representatives, May 3, 2005

An Act To Authorize the Assessment and Collection of Harbor Fees

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Marine Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUPLESSIE of Westbrook.
Cosponsored by Senator BRENNAN of Cumberland and
Representatives: BRANNIGAN of Portland, CUMMINGS of Portland, Senator: DAMON of
Hancock.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 38 MRSA §14** is enacted to read:

6 **§14. Harbor fees**

8 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

10 A. "Harbor regulatory body" means an entity legally authorized to regulate a municipal harbor, including, but not limited to, a harbor commission, the municipal officers of a maritime town or city, a port authority and the county commissioners in the case of a maritime unorganized township.

12 B. "Vessel" means an oceangoing commercial cargo or passenger ship or barge.

14 2. Fee authorization. Each harbor regulatory body may establish a harbor fee of no more than 3¢ per ton per vessel calculated on a gross cargo tonnage basis, or no more than 25¢ per passenger for a passenger ship on a domestic or international voyage, and payable for each use of its harbor, when cargo or passengers are discharged or loaded in the port or when passengers are embarked on a vessel making a port of call.

16 The fee is payable by the owner or operator of each vessel of 500 gross tons or more. If a vessel is more than 500 gross tons, the owner or operator of that vessel shall pay the fee on each ton of gross cargo tonnage, including the first 500 tons.

18 The fee may include a maximum annual cap per vessel or per owner or operator per fiscal year.

20 The fee may be paid in advance or at the time that a vessel enters a harbor but must in all cases be paid before the vessel leaves the harbor.

22 3. Exemptions. The fee authorized by this section does not apply to:

24 A. A vessel of less than 500 gross tons;

26 B. A vessel that provides daily service to islands that are part of the State and whose service is funded in whole or in part by the State;

28 C. A military vessel;

2 D. A historic vessel owned or operated by a tax-exempt
3 organization;

4 E. A public vessel;

6 F. An international or domestic coastal ferry whose port
8 calls do not exceed 6 hours; or

10 G. A vessel seeking a harbor of refuge due to weather
12 conditions.

14 4. Fee established annually; use. Any harbor fee adopted
15 pursuant to this section must be established annually through the
16 harbor regulatory body's budget process and must be based upon
17 and used to fund in whole or in part the cost of the
18 administration and services provided by the harbor regulatory
19 body and the harbor master, the purchase or maintenance of harbor
20 safety equipment, harbor emergency response capability and the
21 provision of harbor security.

22 5. Collection of fee. A harbor regulatory body may
23 determine the manner of collection of a harbor fee imposed
24 pursuant to this section. The collection of the fee may include
25 a requirement that any fee be collected and turned over to the
26 harbor regulatory body by a vessel operator or other entity.
27 When a fee is collected by an entity other than the harbor
28 regulatory body, that entity may retain a portion of the fee for
29 its administrative cost subject to the approval of the harbor
30 regulatory body.

32 The harbor regulatory body may take any actions allowed by law to
33 collect a fee that is due, including, but not limited to:

34 A. Denying future access to the harbor to a specific vessel
35 or any vessel owned by the same owner or operated by the
36 same operator; and

38 B. Placing a lien on the vessel or other property, wherever
39 located, of the owner or operator of the vessel.

42 The lien authorized by this subsection must be placed on the
43 vessel or other property of the owner or operator and enforced
44 pursuant to Title 36, section 612 and any applicable federal law.
45 In any successful enforcement action, the court shall award the
46 harbor regulatory body its fees and costs, including attorney's
47 fees.

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SUMMARY

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4 This bill authorizes harbor commissions and other entities
6 that regulate harbors to establish and collect a fee of no more
8 than 3¢ per ton per vessel calculated on the gross tonnage of an
10 oceangoing vessel or no more than 25¢ per passenger for a
12 passenger ship on a domestic or international voyage. Vessels
14 weighing less than 500 gross tons, vessels providing daily
service to islands that are part of the State and whose service
is funded in whole or in part by the State, military vessels,
historic vessels owned or operated by tax-exempt organizations,
public vessels, certain coastal or international ferries and
vessels seeking harbors of refuge are exempted from the fee.

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16 The bill restricts the use of any fees collected to pay for
18 the cost of the administration and services provided by the
harbor regulatory body and the harbor master, the purchase or
maintenance of harbor safety equipment, harbor emergency response
capability and harbor security.